

August 7, 2013

FROM: MIKE SANCHEZ, Planning Manager
Development Services Division

THROUGH: SOPHIA PAGOULATOS, Supervising Planner
Development Services Division

BY: BRUCE BARNES, Project Manager
Development Services Division

APPROVED BY


JENNIFER K. CLARK
DEPARTMENT DIRECTOR

SUBJECT: CONSIDERATION OF TEXT AMENDMENT APPLICATION NO. TA-13-004 AND
RELATED ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT
NO. TA-13-004 RELATING TO TERMINATION OF RIGHTS FOR SPECIAL
PERMITS

RECOMMENDATION

The appropriateness of the proposed text amendment has been examined pursuant to Section 12-402, and the Director has determined that the proposed text amendment is consistent with the goals and policies in the 2025 Fresno General Plan.

Upon consideration of staff evaluation, it can be concluded that proposed Text Amendment Application No. TA-13-004 is appropriate for the project area. Therefore, staff recommends the Planning Commission take the following actions:

1. RECOMMEND APPROVAL to the City Council of the environmental finding of exemption from the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b)(3) of the CEQA Guidelines which exempts projects that clearly will have no significant effect on the environment.
2. RECOMMEND APPROVAL to the City Council of Text Amendment Application No. TA-13-004.

EXECUTIVE SUMMARY

Text Amendment No. TA-13-004 proposes to amend Section 12-405-D-2 of the Fresno Municipal Code related to the termination of rights for special permits. Specifically, the text amendment would extend the rights granted by a conditional use permits that are discontinued from one to three years within specified areas.

Currently, when a particular use has been granted through a special permit (Site Plan Review or conditional use permit) and has become discontinued for a period of one year, all rights therein have been ceased. A proprietor wishing to have the same use would then be subject to a filing a new application and payment of all appropriate fees. Under the proposed text amendment, the termination of rights as a result of a vacant operation will be extended from one year to three years.

BORDERING PROPERTY INFORMATION

City-wide application including the primary review area of the Fresno-Yosemite International Airport, Fresno Chandler Executive Airport and Sierra Sky Park Airport.

ENVIRONMENTAL FINDING

The State Guidelines for the implementation of the California Environmental Quality Act provide for the exemption of projects which will clearly have no significant effects on the environment. More specifically, Section 15061(b) (3) of the State CEQA Guidelines states:

"...CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

It has been determined that there is no possibility of significant adverse effects as a result of this proposal.

PUBLIC NOTICE

In accordance with Fresno Municipal Code Section 12-402-B, a notice of hearing was published in the Fresno Bee on July 29, 2013, 10 days prior to the planning commission hearing date. No comments have been received by staff.

BACKGROUND/ANALYSIS

Previously this year, Text Amendment No. TA-13-001 was approved by the City Council. The text amendment extended the rights granted by a conditional use permits that are discontinued from one to three years within specified areas. But Text Amendment No. TA-13-001 was limited to those areas located outside the planning boundaries set forth by the Airport Land Use Commission (ALUC). Text Amendment No. TA-13-004 proposes to amend Section 12-405-D-2 of the Fresno Municipal Code related to the termination of rights for special permits. Specifically, the text amendment would extend the rights granted by a conditional use permit that are discontinued from one to three years to those areas located within the planning boundaries set forth by the Airport Land Use Commission (ALUC). The attached maps show the planning boundaries for the established airports within the City of Fresno. By adopting this Text Amendment all territory within the City of Fresno would extend the rights granted by a conditional use permit that are discontinued from one year to three years.

Currently, when a particular use has been granted through a special permit (site plan review or conditional use permit) and has become discontinued for a period of one year, all rights therein have been ceased. A proprietor wishing to have the same use would then be subject to a filing a new application and payment of all appropriate fees. Under the proposed text amendment, the termination of rights as a result of a vacant operation will be extended from one year to three years for those areas within the established planning boundaries of local airports.

The most common occurrence of expired special permits involve restaurants with alcohol related CUP's or used car lots. Staff has been aware of several instances where a vacant facility was fast approaching its one year deadline only to have prospective tenants be turned away due to financial

constraints and timing. The extension from one to three years is viewed as an opportunity for potential investors to explore options plan accordingly and not be constrained to finite period.

Conclusion

Staff believes that the proposed text amendment is in the best interest of the City of Fresno. Staff supports Text amendment No. TA-11-004 as proposed in the attached Draft Ordinance.

Attachments: Exhibit A: Environmental Assessment No. EA-13-004, dated May 22, 2013
Exhibit B: Proposed Ordinance

CITY OF FRESNO
ENVIRONMENTAL FINDING OF NO POSSIBILITY OF SIGNIFICANT EFFECT
ENVIRONMENTAL ASSESSMENT NO. EA-13-04

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO HAVE NO
SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 5 OF THE
STATE OF CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES

APPLICANT: Mark Scott
Development and Resource Management
2600 Fresno Street, 3rd Floor
Fresno, CA 93721

PROJECT LOCATION: City limits of Fresno including the established planning boundary areas of Fresno-Yosemite International, Fresno-Chandler Executive, and Sierra Skypark airports areas as adopted by the Fresno County Airport Land Use Commission.

PROJECT DESCRIPTION: Environmental Assessment No. EA-13-04 pertains to Text Amendment No. TA-13-004 which proposes to amend Section 12-405-B-2 of the Fresno Municipal Code related to the termination of rights for special permits. Specifically, the text amendment would extend the rights granted by a conditional use permits that are discontinued from one to three years within specified areas. This proposal will include all territory within the city limits as well as those areas located within the planning boundaries set forth by the Airport Land Use Commission (ALUC).


This project is exempt under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines.

EXPLANATION: CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Text Amendment No. TA-13-004 proposes to amend Section 12-405-B-2 of the Fresno Municipal Code related to the termination of rights for special permits. Specifically, the text amendment would extend the rights granted by a conditional use permits that are discontinued from one to three years within specified areas. This proposal will limited to those areas located outside planning boundaries set forth by the Airport Land Use Commission (ALUC). Applicants that comply with the proposed text amendment would have already conducted the necessary environmental review. Therefore, staff has determined that a no possibility of significant effect is appropriate for the proposed project.

Date: May 22, 2013

Prepared By: Mike Sanchez
Planner Manager

Submitted By: 
Mike Sanchez
Planning Manager
City of Fresno
Development and Resource Management Department
(559) 621-8277

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
FRESNO, CALIFORNIA, AMENDING SECTION 12-405-D-2
OF THE FRESNO MUNICIPAL CODE RELATING TO
TERMINATION OF RIGHTS FOR SPECIAL PERMITS

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 12-205-D of the Fresno Municipal Code is amended to read:

SECTION 12-405-D TERMINATION OF RIGHTS. A special permit, and all
rights granted therein, shall be considered terminated when either of the following occur:

1. Failure to commence the exercise of rights as required by Section 12-405-C.
2. Whenever the rights granted by a conditional use permit are discontinued for a continuous period of [three years.] ~~one year. However, for conditional use permits granted outside the planning boundary established by the Airport Land Use Commission pursuant to California Public Utilities Code Section 21675, as may be amended, the conditional use permit shall be considered terminated whenever the rights granted by that permit are discontinued for a continuous period of three years.~~

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

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STATE OF CALIFORNIA
COUNTY OF FRESNO
CITY OF FRESNO

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) ss.
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Ordinance Re Amending Section 12-405-D
re Termination of Rights for Special Permits

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2013.

AYES :
NOES :
ABSENT :
ABSTAIN:

Mayor Approval: _____, 2013

Mayor Approval/No Return: _____, 2013

Mayor Veto: _____, 2013

Council Override Vote: _____, 2013

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:

DOUGLAS T. SLOAN
City Attorney






BY: _____
Talia Kolluri-Barbick, Deputy

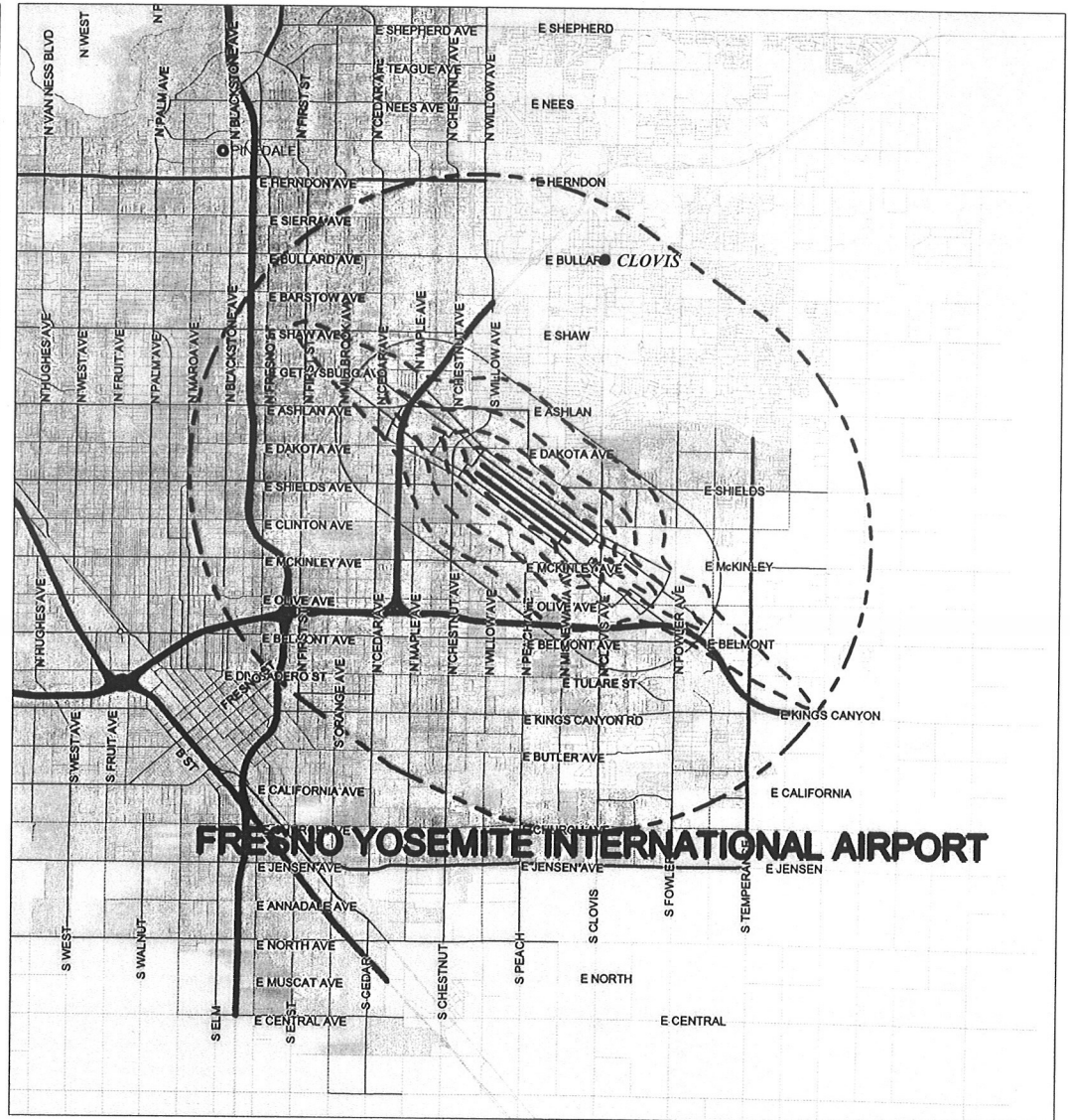
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MILES

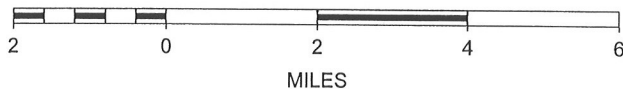


City of Fresno

-  User Drawn Redlines
- Fresno**
-  Incorporated Cities
-  Unincorporated Cities
- Airports**
-  City Limits
-  Fresno County



SCALE 1 : 158,023



[illegible]

A number line representing distances in miles. The line has tick marks at 2, 0, 2, 4, and 6. There are four shaded regions: a small rectangle from 2 to 3, a small rectangle from 3 to 4, a small rectangle from 4 to 5, and a larger rectangle from 2 to 4.

